

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT
★ JUL 19 2005 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

P.M. _____
TIME A.M. _____

-----X
JOHN AMES AND MICHAEL PANTONY AS
TRUSTEES OF THE UNITED WELFARE FUND,
WELFARE DIVISION AND THE UNITED WELFARE
FUND SECURITY DIVISION,

CIVIL ACTION NUMBER:
05-CV-0988 (ARR) (SMG)

Plaintiffs,

INTERIM ORDER

-against-

DYNASTY ELECTRIC, INC.,

Defendant.
-----X

This action having been commenced on February 18, 2005 by the filing of the Summons and Complaint and a copy of the Summons and Complaint having been served upon a principle, Stephanie Slomanin, on March 14, 2005, and proof of service having been filed on or about March 25, 2005; and the defendant not having appeared in this matter; and the defendant having not answered the Complaint; and the time for appearing and answering the Complaint having expired; and the default of said defendant Dynasty Electric, Inc. in the premises of having been duly entered according to law; upon application of plaintiffs, the following interim order is hereby entered against said defendant pursuant to the prayer of said complaint.

WHEREFORE, by virtue of the law and by reason of the premises aforesaid, it is

ORDERED, ADJUDGED AND DECREED, that defendant, its officers and agents shall allow plaintiffs to conduct an audit, within 30 days of service of this order, of defendant's payroll books and records for the period January 1, 2003 through the present to determine the amounts due to the United Welfare Fund, Welfare Division and the United Welfare Fund, Security Division.

ORDERED, ADJUDGED AND DECREED, that defendant, its officers and agents pay all costs attendant to any audit of defendant's payroll books and records.

ORDERED, ADJUDGED AND DECREED, that defendant, its officers and agents pay to plaintiffs their reasonable attorney's fees incurred in this action relating to the audit, along with costs and disbursements thereto.

ORDERED, ADJUDGED AND DECREED, that, upon completion of said audit, plaintiffs shall serve a copy of the results upon defendant. If the parties are unable to resolve said audit, within 30 days of service of the results, application shall be made to this Court for further proceedings.

Dated: July 18, 2005

United States District Judge

THIS ORDER WAS DOCKETED ON



JUL 19 2005



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN AMES AND MICHAEL PANTONY AS
TRUSTEES OF THE UNITED WELFARE FUND,
WELFARE DIVISION AND THE UNITED WELFARE
FUND SECURITY DIVISION,

Plaintiffs,

-against-

DYNASTY ELECTRIC, INC.,

Defendant.
-----X

P.M. _____
TIME A.M. _____

CLERK'S NOTATION
OF DEFAULT
05-CV- 0988 (ARR)

I, Robert C. Heinemann, Clerk of the Court for the United States District Court for the Eastern District of New York, do hereby certify that the Affidavit of Service in the above-entitled action indicates that defendant, DYNASTY ELECTRIC, INC., was served with a copy of the summons and complaint on March 14, 2005, by delivering a copy of the summons and complaint to Stephanie Slomanin, Managing Agent of the corporation and authorized to accept process of service on behalf of the corporation at 46 Hemlock Street, Brooklyn, New York 11208.

I further certify that a review of the court file and docket entries indicates that defendant, DYNASTY ELECTRIC, INC., has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.

The default of defendant, DYNASTY ELECTRIC, INC., is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: Brooklyn, New York
July 14, 2005

ROBERT C. HEINEMANN
CLERK OF COURT

By: Janet Hamilton
Deputy Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
JOHN AMES AND MICHAEL PANTONY AS
TRUSTEES OF THE UNITED WELFARE FUND,
WELFARE DIVISION AND THE UNITED WELFARE
FUND SECURITY DIVISION,

Plaintiffs,

-against-

DYNASTY ELECTRIC, INC.,

Defendant.
-----x

CIVIL ACTION NUMBER:
05-CV-0988 (ARR) (SMG)

REQUEST TO
ENTER DEFAULT

TO: ROBERT C. HEINEMANN
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Please enter the default of Defendant Dynasty Electric, Inc., pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, for failure to appear, plead, file an answer or otherwise defend the above-captioned action as fully appears from the court file herein.

Dated: May 5, 2005
Elmsford, New York

By: s/Julie Pearlman Schatz
Julie Pearlman Schatz (JS 6474)

[jm\wpdocs05\UWF&SD\Req.2EnterDflts\DynastyElectric]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN AMES AND MICHAEL PANTONY AS
TRUSTEES OF THE UNITED WELFARE FUND,
WELFARE DIVISION AND THE UNITED WELFARE
FUND SECURITY DIVISION,

Plaintiffs,

-against-

DYNASTY ELECTRIC, INC.,

Defendant.
-----X

CIVIL ACTION NUMBER:
05-CV-0988 (ARR) (SMG)

**AFFIDAVIT IN SUPPORT
OF ENTRY OF DEFAULT**

STATE OF NEW YORK)
) SS:
COUNTY OF WESTCHESTER)

Julie Pearlman Schatz, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am the attorney of record for Plaintiffs John Ames and Michael Pantony as Trustees of the United Welfare Fund, Welfare Division ("the Welfare Fund") and the United Welfare Fund, Security Division ("the Security Fund") in the above-entitled action. I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to the Civil Rules for the Eastern District of New York in support of Plaintiffs' application for the entry of a default judgment against Defendant Dynasty Electric, Inc. ("Dynasty"). The basis of the information herein contained is from Plaintiffs' representatives and their books and records.

3. This is an action arising under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001 et. seq., to allow Plaintiffs to make proper audit of Dynasty's payroll books and records to determine the amounts due to the Welfare Fund and Security Fund by Dynasty. The subject matter jurisdiction of this Court is invoked pursuant to 29 U.S.C.

§1132(a)(3), (d)(1), (f), (g), 29 U.S.C. §1145 and 29 U.S.C. §185.

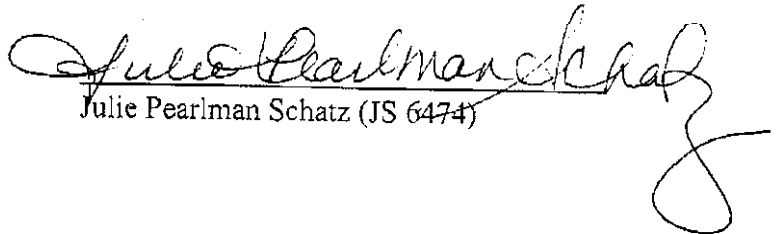
4. This action was commenced on February 18, 2005 by the filing of Summons and Complaint. A copy of the Summons and Complaint are annexed hereto as Exhibit "A." A copy of the Summons and Complaint was served on Dynasty on March 14, 2005 by service upon a principle, Stephanie Slomanin, and proof of service for Dynasty was filed. A copy of the proof of service is annexed hereto as Exhibit "B."

5. Dynasty has not answered the Complaint and the time for Dynasty to answer or otherwise appear has expired.

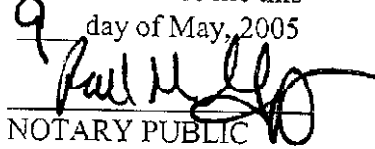
6. This motion seeks entry of an order compelling Dynasty to submit to an audit of their payroll books and records. An audit is essential to determine whether Dynasty has complied with the Collective Bargaining Agreement and the Trust Agreements for the Funds.

WHEREFORE, the Plaintiffs request entry of the annexed Judgment by Default against Dynasty.

Dated: May 5, 2005


Julie Pearlman Schatz (JS 6474)

Sworn to before me this
9 day of May, 2005


NOTARY PUBLIC

RICHARD M. GREENSPAN
NOTARY PUBLIC, State of New York
No. 80-4828243
Qualified in Westchester County
Commission Expires

10/31/06

[jm\wpdocs05\UWF&SD\Affidavits\DynastyElectric.JPS]

STATE OF NEW YORK
UNITED STATES DISTRICT COURT
DISTRICT: EASTERN DISTRICT OF NEW YORK

INDEX #: 05 CV 0988
Date Filed:

ATTORNEY(S): Richard M. Greenspan, P.C.: PH: (914)345-2100
ADDRESS: Parkway Plaza II Elmsford NY 10523 File No.:

John Ames and Michael Pantony as Trustees of the United Welfare Fund, Welfare Division and the United Welfare Fund Security Division

vs
Dynasty Electric, Inc

Plaintiff(s)/Petitioner(s)

Defendant(s)/Respondent(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NASSAU, SS.:

Thomas G. Russo, being duly sworn deposes and says: Deponent is not a party herein, is over 18 years of age and resides in New York State. On March 14, 2005 at 1:30 PM at 46 Hemlock Street, Brooklyn, NY 11208, deponent served the within Summons and Complaint on: Dynasty Electric, inc, Defendant therein named.

#1 INDIVIDUAL By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

#2 CORPORATION By delivering thereto a true copy of each to Stephanie Slomanin personally, deponent knew the person so served
 X to be the Managing Agent of the corporation, and authorized to accept service on behalf of the corporation

#3 SUITABLE

#3 SUITABLE
AGE PERSON By delivering a true copy of each to _____ a person of suitable age and discretion,
Said premises is recipient's: ☐ actual place of business ☐ dwelling house (usual place of abode) within the state.

#4 AFFIXING TO DOOR By affixing a true copy of each to the door of said premises, which is recipient's ☐ actual place of business ☐ dwelling house (place of abode) within the state.

Dependent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat
on the _____ day of _____ at _____
on the _____ day of _____ at _____
on the _____ day of _____ at _____
on the _____ day of _____ at _____
Address confirmed by _____ at _____

#5 MAIL COPY On _____, deponent completed service by depositing a true copy of each document to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

#6 DESCRIPTION: A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:
 X Sex: Female Color of skin: White Color of hair: Brown Age: 21 - 35 Yrs. Height: 5' 9" - 6' 0"
 (Use with #1, 2 or 3) Weight: 131 - 160 Lbs. Other Features:

#7 WIT, FEES the authorized witness fee and / or traveling expenses were paid (tendered) to the recipient.

#8 MILITARYSRVC Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that recipient was not. Recipient wore ordinary civilian clothes and no military uniform.

#9 OTHER

Sworn to before me on March 16, 2005

[Handwritten signature]

PATRICIA ROTHFRITZ
NOTARY PUBLIC, State of New York
01R06055503, Nassau County
Term Expires February 26, 2007

John L. Brown

Thomas G. Russo
Server's Lic # 1076023

Invoice-Work Order # 0232849

INTERCOUNTY JUDICIAL SERVICES, 85 WILLIS AVE.

11501, PH. 516-248-8270, FAX 516-294-6225